REMARKS

The Communication of April 5, 2005 has been received and reviewed. Claims 1-43 are currently pending in the application and subject to a Restriction Requirement. Claim 30 has been amended to recite the elements of independent claim 20, making amended claim 30 an independent claim. New claims 44-48 have been added. No new matter has been added. All amendments are made without prejudice or disclaimer. Substantive examination of the application is requested.

Restriction Requirement

Responsive to the restriction requirement, applicants hereby elect, without traverse, to prosecute the claims of Group VII, claims 30 and 31.

The Office communication further requested that if applicants elect Group VII, applicants must also select a compound from the group consisting of SEQ ID NOS: 1-7 and 10. (*See*, Office communication, at page 5). It is asserted by the Office that this is not a species election. (*Id.*). It is noted that SEQ ID NO: 7 encompasses SEQ ID NO: 12. In other words, SEQ ID NO: 12 is a fragment of SEQ ID NO: 7. Applicants primary wish to elect SEQ ID NO: 12; however, because claim 31 does not recite SEQ ID NO: 12, the Office communication did not include this sequence in the species election. In view of necessity to elect one of the species recited by claim 31, applicants provisionally elect, with traverse, SEQ ID NO: 7.

This election is made with traverse because the Office communication cites no statutory or regulatory authority for the basis of the requirement for restriction between the peptide sequences. M.P.E.P. § 803.04 states, in part, that:

> the Commissioner has decided *sua sponte* to partially waive the requirements of 37 C.F.R. 1.141 *et seq.* and permit a reasonable number of such nucleotide sequences to be claimed in a single application. . . . It has been determined that normally ten sequences constitute a reasonable number for examination purposes. Accordingly, in most cases, up to ten independent and distinct nucleotide sequences will be examined in a single application without restriction.

Nucleotide sequences encode for peptide sequences. Thus, peptide sequences are analogous to nucleotide sequences within the context of the Commissioner's partial waiver of 37 C.F.R. § 1.141 *et seq.* Therefore, applicants wish to have all fragments and variants of SEQ ID NO: 7

examined, including SEQ ID NOS: 5, 8, 13 and especially SEQ ID NO: 12. Applicants submit that five sequences is significantly less than the ten sequences allowed by M.P.E.P. § 803.04 and thus is a reasonable number of sequences. Applicants further submit that it would not be a burden to examine SEQ ID NO: 12, and variants thereof, including SEQ ID NOS; 5, 7, 8 and 13, because a search for SEQ ID NO: 12 would necessarily encompass SEQ ID NOS: 5, 7, 8 and 13. Thus, applicants request examination of SEQ ID NO:12 and fragments and variants thereof including SEQ ID NOS: 5, 7, 8 and 13.

Applicants were further required to elect a species. (*See*, Office communication, at page 6). The claims recite, in part, a type I transmembrane protein Markush group including TLN, APP, Notch E-cadherin, and Nicastrin. (*See*, for example, claims 7, 11, 15, 19, 23 and 36). According to M.P.E.P. § 803.02, when claims recite a Markush group, applicants are required only to *provisionally* elect a single species prior to examination on the merits. M.P.E.P. § 803.02, states:

> A Markush-type claim can include independent and distinct inventions. This is true where two or more of the members are so unrelated and diverse that a prior art reference anticipating the claim with respect to one of the members would not render the claim obvious under 35 U.S.C. 103 with respect to the other member(s). In applications containing claims of that nature, *the examiner may require a provisional election of a single species* prior to examination on the merits.

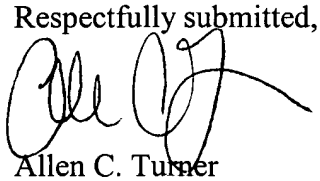
(M.P.E.P. § 803.02, emphasis added, *see also*, *In re Weber*, 580 F.2d 455, 457-459 (C.C.P.A. 1978)). Accordingly, applicants provisionally elect to prosecute the claims of species B.) type I transmembrane domain proteins, 2.) amyloid precursor protein (APP). Claims 1-43, and new claims 44-48, appear to be readable thereon.

Furthermore, applicants understand that claims 1, 4, 8, 12, 16, 20-21, 26, 28-30, 32, 33 and 37 have been designated generic claims and assert that these claims are generic to at least species B.) type I transmembrane domain proteins, 2.) amyloid precursor protein (APP). (Restriction Requirement, at page 7).

CONCLUSION

In view of the foregoing amendments and remarks, the applicants respectfully request substantive examination. If there are any questions concerning the foregoing, or if the Office should determine that there are additional issues which might be resolved by a telephone conference, it is respectfully invited to contact applicants' undersigned attorney.

Respectfully submitted,



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